

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

FRANKLIN BARRIOS,

Plaintiff,

v.

TORRES, et al.,

Defendants.

No. 1:20-cv-01234-KES-CDB (PC)

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS TO GRANT  
DEFENDANTS' MOTION TO DISMISS  
AND TO DENY PLAINTIFF'S MOTION  
FOR LEAVE TO FILE AN AMENDED  
COMPLAINT

(Doc. 46)

Plaintiff Franklin Barrios is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action brought pursuant to 42 U.S.C. § 1983. This matter was referred to a United States magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On June 29, 2023, defendants R. Diaz and J. Torres moved to dismiss plaintiff's first amended complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). (Doc. 33.) On September 29, 2023, plaintiff filed an opposition to defendants' motion to dismiss, and a motion for leave to file an amended complaint.<sup>1</sup> (Docs. 40, 41.) On January 23, 2024, the assigned magistrate judge issued findings and recommendations, recommending that defendants' motion to dismiss be granted and that plaintiff's motion for leave to file an amended complaint be denied. (Doc. 46.) The magistrate judge provided 14 days within which any party could file objections to the findings and recommendations. (*Id.* at 24.) More than 14 days have elapsed, and no party has

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<sup>1</sup> Both motions were fully briefed as of October 27, 2023. (Docs. 42–44.)

1 filed objections to the findings and recommendations.

2 In accordance with the provisions of 28 U.S.C. § 636(b)(1), this court has conducted a de  
3 novo review of the case. After carefully reviewing the file, the court concludes that the findings  
4 and recommendations are supported by the record and proper analysis.

5 Accordingly:

- 6 1. The findings and recommendations issued on January 23, 2024, (Doc. 46), are  
7 adopted in full;
- 8 2. Defendants' motion to dismiss, (Doc. 33), is granted;
- 9 3. Plaintiff's motion for leave to file an amended complaint, (Doc. 40), is denied;
- 10 4. Plaintiff's first amended complaint is dismissed with prejudice for failure to state a  
11 claim upon which relief can be granted; and
- 12 5. The Clerk of the Court is directed to close this case.

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15 IT IS SO ORDERED.

16 Dated: August 14, 2024

  
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UNITED STATES DISTRICT JUDGE